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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,418	11/11/2003	John Joseph Rabasco	06426 USA	6797
23543	7590	04/05/2006	EXAMINER	
AIR PRODUCTS AND CHEMICALS, INC. PATENT DEPARTMENT 7201 HAMILTON BOULEVARD ALLENTOWN, PA 181951501			SALVATORE, LYNDIA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C1

Office Action Summary	Application No. 10/706,418	Applicant(s) RABASCO ET AL.	
	Examiner Lynda M. Salvatore	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's remarks and Inventor Declaration filed 1/06/06 have been fully considered and entered. Applicant's remarks made with respect to the crystalline melting point of the Daniels et al., ethylene-vinyl acetate polymer are found sufficient to evidence a lack of inherency. Specifically, Applicant provides comparative data in the specification using the polymer of Daniels et al., and the crystalline melting point is well below the claimed range. As such, it is the position of the Examiner that Applicant has sufficiently evidenced that the claimed melting point range is not an inherent feature to the ethylene-vinyl acetate polymer of Daniels et al. Thus, the rejections made over Daniels et al., are hereby withdrawn. However, despite this advance, Applicant's claims are not found patently distinguishable over the combination of Hoopengardner, US 4,990,399 in view of Kohlhammer et al., US 6,559,259.

Terminal Disclaimer

2. The terminal disclaimer filed on 1/25/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of copending Applications 10/620654 and 10/378996 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoopengardner, US 4,990,399 in view of Kohlhammer et al., US 6,559,259.

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The patent issued to Hoopengardner teaches a carpet cushion comprising a compressible foam layer coated with a layer of pressure sensitive adhesive (abstract, figure 1 and column 4, 14-37). Hoopenengardner does not teach a specific adhesive composition, however, the patent issued to Kohlhammer et al., teach a water soluble adhesive suitable for textiles, non-wovens and the production of compression moulding compositions and shaped articles (column 9, 58-65). Kohlhammer et al., disclose cross-linkable protective colloids and processes for the polymerization of ethylenically unsaturated monomers using such protective colloids. The stabilization of polymer dispersion with protective colloids and surfactant is known in the art (Column 1, lines 11-17). The aqueous polymer dispersions are prepared by the process of aqueous emulsion polymerization and can be carried out under increased pressure (Column 6, lines 22-30 and 48-50). With regard to the surfactant limitations, Kohlhammer et al., teach employing nonionic and anionic fatty alcohols (e.g., surfactant) (column 6, 55-60). Polymer dispersions of 50 to 95% by weight of vinyl acetate and 5 to 50% of ethylene and 50-75% by weight of vinyl acetate, 1 to 30% by weight of acrylic acid ester, and 5 to 40% by weight of ethylene are especially preferred (Column 7, lines 62-67 and Column 8, lines 18-21). Kohlhammer et al., teach that the polymer composition exhibits high mechanical strength and high resistance to water and solvents (column 2, 15-25).

Therefore, motivated by the desire to provide a carpet with an adhesive having high mechanical strength and high resistance to water and solvents, it would have been obvious to one having ordinary skill in the art at the time the invention was made to coat the carpet taught by Hoopengardner with the adhesive taught by Kohlhammer et al.

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With regard to the crystalline melting point range limitations recited, Kohlhammer et al., does not specifically teach the claimed range, however, given that the chemical composition of the ethylene vinyl acetate copolymer and the process of making such a copolymer as taught by Kohlhammer et al., and that of the claimed invention are identical, it is reasonable to presume that the claimed melting point range is inherent to the ethylene employed by Kohlhammer et al. Applicant is invited to evidence otherwise.

Similarly, with regard to the claimed tensile storage modulus and heat of fusion properties, the Examiner submits that the adhesive of Kohlhammer et al., would be expected to have the claimed properties. Support for said presumption is found in the use of the same ethylene-vinyl acetate emulsion having the claimed amounts of each constituent. Applicant is invited to evidence otherwise.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 3, 2006

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A handwritten signature in black ink, appearing to read "Linda Salva". The signature is written in a cursive, flowing style with a large initial "L".